

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**AT NASHVILLE, TENNESSEE**

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MAY 11 PM 4:26  
T.R.A. DOCKET ROOM

**IN RE:**

**UNITED CITIES GAS COMPANY, a  
Division of ATMOS ENERGY  
CORPORATION, INCENTIVE PLAN  
ACCOUNT (IPA) AUDIT**

**DOCKET NO.  
01-00704**

**UNITED CITIES GAS COMPANY, a  
Division of ATMOS ENERGY  
CORPORATION, PETITION TO AMEND  
THE PERFORMANCE BASED  
RATEMAKING MECHANISM RIDER**

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**SUPPLEMENTAL RESPONSES TO ATTORNEY GENERAL'S INTERROGATORIES  
AND REQUESTS FOR PRODUCTION SERVED ON THE TENNESSEE  
REGULATORY AUTHORITY STAFF**

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The Staff of the Energy and Water Division of the Tennessee Regulatory Authority ("Staff"), pursuant to the Hearing Officer's Order of May 11, 2004 directing Staff to file a supplemental response identifying 1) the legal standard for Authority approval of a settlement agreement in the generic sense; and 2) the legal standard for Authority approval of a proposed amendment to a tariff<sup>1</sup> that Staff is relying on in this docket by the close of business on May 11, 2004, hereby submit the following responses:

1. Regarding the applicable legal standard for settlement agreements submitted to the Authority for approval, to the extent that a separate standard exists apart from the legal standard that governs the substance of the controversy the proposed settlement seeks to resolve, the Staff is relying on the same standard applied by the Authority in approving the proposed settlements

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<sup>1</sup> Transcript of Proceedings, p 19 (May 10, 2004)

offered by the parties to TRA Docket Nos. 00-01022, 03-00118, and 03-00313. Copies of each of these settlement agreements are attached to this response collectively as Exhibit A. The Consumer Advocate and Protection Division of the Office of the Attorney General was a party to each of these dockets and to each of these settlement agreements. Therefore the Consumer Advocate should not need additional discovery to determine the applicable legal because it presumably relied upon the above-identified standard in seeking approval of these settlement agreements in these dockets. Each of these settlement agreements was approved by the Authority, either in whole or in part, and an issue regarding the applicable legal standard for approval was not raised before the Authority prior to or at the time of such approval.

2. Regarding the applicable legal standard for Authority approval of a proposed amendment to a tariff, the Staff is relying on the standard mandated by Tenn. Code Ann. §§ 65-5-203(a) and 65-4-117(3).

#### VERIFICATION

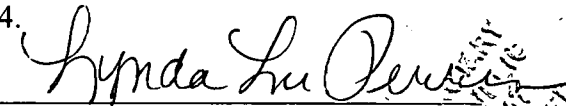
I, Pat Murphy, hereby depose and say, after having been first duly sworn, that I have read the foregoing Interrogatories and the answers and responses thereto are true according to the best of my knowledge, information, and belief.

  
Name: Pat Murphy  
Title: Senior Financial Analyst

DAVIDSON COUNTY, TENNESSEE

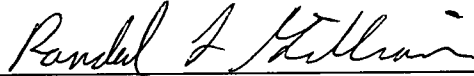
Personally appeared before me, Mrs. Pat Murphy, with whom I am personally acquainted, and who acknowledged that he has answered the foregoing Interrogatories and executed the foregoing instrument for the purposes therein contained.

Witness my hand, at office, on this 11<sup>th</sup> day of May, 2004.

  
NOTARY PUBLIC  
My Commission Expires: 5-28-06

Respectfully submitted,

ENERGY AND WATER DIVISION  
OF THE TENNESSEE REGULATORY AUTHORITY



Randal L. Gilliam  
Attorney for Staff  
460 James Robertson Pkwy.  
Nashville, TN 37243  
[Randal.Gilliam@state.tn.us](mailto:Randal.Gilliam@state.tn.us)  
(615) 741-3191 ext. 212

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served via hand delivery or U.S. Mail, postage prepaid, upon the persons listed below this 7<sup>th</sup> day of May, 2004.

Russell T. Perkins  
Timothy C. Phillips  
Shilina B. Chatterjee  
Office of the Attorney General  
Consumer Advocate and Protection Division  
P.O. Box 20207  
Nashville, TN 37202

Joe A. Conner  
Misty Smith Kelley  
1800 Republic Centre  
633 Chestnut Street  
Chattanooga, TN 37450

**EXHIBIT "A"**

**Before The  
Tennessee Regulatory Authority**

Nashville, Tennessee

RECEIVED

2003 SEP -9 PM 4:15

T.R.A. DOCKET ROOM

In re

Application of Nashville Gas Company, a  
Division of Piedmont Natural Gas Company,  
Inc. for an Adjustment of its Rates and  
Charges, the Approval of Revised Tariffs and  
the Approval of Revised Service Regulations.

**Stipulation**

**Docket No. 03-00313**

Nashville Gas Company (Nashville Gas or the Company), a division of Piedmont Natural Gas Company, Inc. (Piedmont) and the Consumer Advocate and Protection Division (CAPD) of the State of Tennessee Attorney General's Office hereby stipulate and agree as follows:

1 Piedmont conducts its natural gas distribution business in the State of Tennessee through its operating division, Nashville Gas. Nashville Gas' natural gas distribution business is subject to regulation and supervision by the Tennessee Regulatory Authority (Authority) pursuant to Chapter 4 and 5 of Title 65 of the Tennessee Code Annotated.

2. Nashville Gas has its principal offices at 665 Mainstream Drive, Nashville, Tennessee, and it is engaged in the business of furnishing natural gas to customers located in Davidson County and portions of the adjoining counties of Cheatham, Dickson, Robertson, Rutherford, Sumner, Trousdale, Williamson and Wilson and in certain incorporated towns and cities located therein.

3 On April 29, 2003, Nashville Gas filed an application for an adjustment of its rates and charges, the approval of revised tariffs and the approval of revised service regulations. In that filing, Nashville Gas sought an increase in its annual revenues of \$18,315,475.

4 On May 14, 2003, the CAPD filed a Petition to Intervene in this proceeding. By order dated June 26, 2003, the CAPD's intervention was allowed.

5 The parties to this settlement have engaged in substantial discovery and have undertaken extensive discussions to resolve all known disputed issues in this case. In addition, the Staff of the Authority has engaged in discovery. As a result of the information obtained during discovery and the discussions between the Company and the CAPD, the parties to this stipulation have agreed to adjustments to revenues, expenses, net operating income, net operating income for return, rate base and return on rate base. These adjustments reduce the Company's additional revenue requirements from \$18,315,475 to \$10,300,000.<sup>1</sup>

<sup>1</sup> The Staff of the Tennessee Regulatory Authority has identified certain adjustments which the parties agree are included in the \$10,300,000 settlement amount.

LAW OFFICES

**BAKER, DONELSON, BEARMAN & CALDWELL**

A PROFESSIONAL CORPORATION

1800 REPUBLIC CENTRE

633 CHESTNUT STREET

CHATTANOOGA, TENNESSEE 37450-1800

(423) 756-2010

FACSIMILE

(423) 756-3447

MISSISSIPPI

JACKSON

GEORGIA

ATLANTA

WASHINGTON, D C

BDBC INTERNATIONAL, LLC  
BEIJING, CHINA  
REPRESENTATIVE OFFICE

TENNESSEE

MEMPHIS  
NASHVILLE  
CHATTANOOGA  
KNOXVILLE  
JOHNSON CITY  
HUNTSVILLE

JOE A CONNER  
Direct Dial (423) 752-4417  
Direct Fax (423) 752-9527  
Internet Address jconner@bdbc.com

April 10, 2002

**VIA FEDERAL EXPRESS**

K David Waddell  
Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243

**Re: In re: Petition of United Cities Gas Company for Approval of a Transportation Gas Service Agreement with Superior Industries International, Inc.  
Docket No. 00-01022**

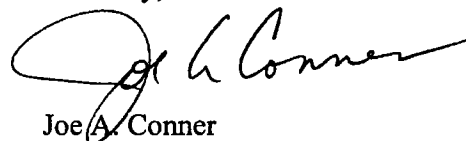
Dear Mr Waddell.

Enclosed for filing in your office are the original and 14 copies of United Cities' Notice of Settlement Agreement Between United Cities Gas Company and the Consumer Advocate and Protection Division in the above-referenced docket

Please return a copy stamped "filed" to me in the enclosed postage prepaid envelope

If you should have any questions, please do not hesitate to contact me

Sincerely,



Joe A. Conner  
For the Firm

JAC ldg  
Enclosures  
cc, w/encls Mr Richard Collier  
Mr Timothy C Phillips

TENNESSEE

MEMPHIS  
NASHVILLE  
CHATTANOOGA  
KNOXVILLE  
JOHNSON CITY  
HUNTSVILLE

LAW OFFICES  
**BAKER, DONELSON, BEARMAN & CALDWELL**

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JACKSON

GEORGIA

ATLANTA

REC'D  
REGULATORY AUTH.

02 APR 12 AM 8 39

OFFICE OF THE EXECUTIVE SECRETARY WASHINGTON, D C

EXECUTIVE SECRETARY

BDBC INTERNATIONAL, LLC  
BEIJING, CHINA  
REPRESENTATIVE OFFICE

JOE A. CONNER  
Direct Dial (423) 752-4417  
Direct Fax (423) 752-9527  
Internet Address jconner@bdbc.com

April 10, 2002

**VIA FEDERAL EXPRESS**

K. David Waddell  
Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243

**Re: In re: Petition of United Cities Gas Company for Approval of a Transportation Gas Service Agreement with Superior Industries International, Inc.  
Docket No. 00-01022**

Dear Mr. Waddell:

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Please return a copy stamped "filed" to me in the enclosed postage prepaid envelope.

If you should have any questions, please do not hesitate to contact me.

Sincerely,



Joe A. Conner  
For the Firm

JAC:ldg

Enclosures

cc, w/encls.: Mr. Richard Collier  
Mr. Timothy C. Phillips

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

IN RE: PETITION OF UNITED CITIES GAS	)	
COMPANY FOR APPROVAL OF A	)	
TRANSPORTATION GAS SERVICE	)	
AGREEMENT WITH SUPERIOR	)	
INDUSTRIES INTERNATIONAL, INC.	)	DOCKET NO. 00-01022
	)	
	)	

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**NOTICE OF SETTLEMENT AGREEMENT BETWEEN  
UNITED CITIES GAS COMPANY AND  
THE CONSUMER ADVOCATE AND PROTECTION DIVISION**

---

United Cities Gas Company ("United Cities") hereby notifies the Tennessee Regulatory Authority that it has entered a settlement agreement with the Consumer Advocate and Protection Division of the Office of Attorney General concerning United Cities' request for approval of the transportation gas service agreement between it and Superior Industries International, Inc. ("Superior Industries"). A copy of the settlement agreement is attached hereto as Exhibit A and incorporated herein by reference. In accordance with the terms of the settlement agreement, United Cities is hereby restating its request for recovery under the margin loss recovery rider of its tariff to 50% of the margin loss resulting from the reduced-rate structure in the transportation gas service agreement between it and Superior Industries. In turn, the Attorney General has agreed to withdraw his objection to the approval of the transportation gas service agreement at issue.

In light of this settlement agreement with the Attorney General, United Cities requests that this matter be placed before the Directors for approval as restated and provided in the document attached hereto as Exhibit A.

Respectfully submitted,

BAKER, DONELSON, BEARMAN  
& CALDWELL, P.C.

By: 

Joe A. Conner, BPR # 12031  
1800 Republic Centre  
633 Chestnut Street  
Chattanooga, TN 37450-1800  
(423) 756-2010

Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been mailed, postage prepaid, to the following parties of interest this 10th day of April, 2002:

Richard Collier  
General Counsel, Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

Timothy C. Phillips  
Office of Attorney General and Reporter  
Consumer Advocate and Protection Division  
P.O. Box 20207  
Nashville, TN 37202

  
Joe A. Conner

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

IN RE: PETITION OF UNITED CITIES     )  
GAS COMPANY FOR APPROVAL OF A     )  
TRANSPORTATION GAS SERVICE     )  
AGREEMENT WITH SUPERIOR     )  
INDUSTRIES INTERNATIONAL, INC.     )     DOCKET NO. 00-01022  
   )  
   )

**SETTLEMENT AGREEMENT BETWEEN UNITED CITIES GAS COMPANY  
AND THE CONSUMER ADVOCATE AND PROTECTION DIVISION**

United Cities Gas Company ("United Cities") and Paul G. Summers, the Attorney General & Reporter, through the Consumer Advocate and Protection Division of the Office of Attorney General (hereinafter "Attorney General") enter this agreement according to the following terms and conditions.

WHEREAS, on November 13, 2000, United Cities filed a petition for approval of a transportation gas service agreement ("TGSA") between it and Superior Industries International, Inc. ("Superior"). As set forth in the petition, Superior previously informed United Cities of its intent to install a pipeline connection from its Johnson City, Tennessee facilities to the East Tennessee Natural Gas Pipeline in order to bypass United Cities' distribution system. The East Tennessee Natural Gas Pipeline is located approximately one mile from the Superior facilities in Johnson City. United Cities requested information from Superior to evaluate the economic basis of its decision to bypass United Cities' distribution system. Upon review of the information from Superior and discussions with Superior, United Cities determined that the proposed bypass was both an economically feasible and operationally viable option for Superior. After being advised by Superior that it intended to immediately proceed with the proposed bypass, United Cities performed further financial analysis and negotiated a rate structure that would keep Superior as a long-term customer rather than continuing with its imminent plan to install a bypass pipeline. United Cities and Superior entered the TGSA which provided for a reduced rate structure in order to avoid the imminent threat of bypass by Superior. United Cities sought in this proceeding to recover not more than 90% of the gross profit margin loss.

WHEREAS, on or about March 12, 2001, the Attorney General petitioned to intervene pursuant to *Tennessee Code Annotated* § 65-4-118(c)(2)(A).

WHEREAS, the Attorney General sought to intervene in order to obtain information supporting United Cities' petition and to address issues relating to the degree of certainty of the bypass. The petition to intervene was granted and a contested case was initiated.

WHEREAS, during the course of this proceeding, United Cities provided the TRA staff and the Attorney General with detailed economic analysis and additional evidence of the proposed bypass.

WHEREAS, United Cities provided the TRA Staff and the Attorney General with data responses regarding the threat by Superior to bypass the United Cities distribution system.

WHEREAS, after substantive negotiations between the Attorney General and United Cities, the parties have agreed to a resolution of the contested case. The Attorney General has agreed to withdraw his objection to the petition in exchange for United Cities agreeing to reduce its request for margin loss recovery from 90% to 50%. In this particular situation, and limited to this situation, the Attorney General and UCG agree that this percentage break is appropriate.

WHEREAS, in consideration of the Attorney General's cooperation and agreement to withdraw his objection to the petition and the circumstances of this matter, United Cities has agreed to modify its request for margin loss recovery from 90% to 50% as of the effective date of the TGSA.

NOW, THEREFORE, in consideration of the respective concessions between the parties and the facts of this matter, United Cities and the Attorney General agree to the following:

1. United Cities will modify its request under the margin loss recovery rider to 50% of the margin loss resulting from the reduced rate structure in the TGSA between United Cities and Superior with United Cities to receive said margin loss recovery as of the effective date of the TGSA.
2. The Attorney General agrees to withdraw its objection to the approval of TGSA between United Cities and Superior.
3. This settlement does not preclude United Cities from seeking the full percentage of margin loss recovery allowed in its tariff in a subsequent case.

4. The parties agree to file a joint notice of this settlement with the TRA.

ENTER this 13<sup>th</sup> day of March, 2002.



Paul G. Summers, BPR # 6285  
TENNESSEE ATTORNEY GENERAL

UNITED CITIES GAS COMPANY

By: Patricia J. Childers

STATE OF TENNESSEE

Office of the Attorney General **RECEIVED**



2003 JUN 27 PM 7:06

T.R.A. DOCKET ROOM

**ANDY D. BENNETT**  
CHIEF DEPUTY ATTORNEY GENERAL

**LUCY HONEY HAYNES**  
ASSOCIATE CHIEF DEPUTY  
ATTORNEY GENERAL

**PAUL G. SUMMERS**  
ATTORNEY GENERAL AND REPORTER

MAILING ADDRESS

P O BOX 20207  
NASHVILLE, TN 37202

**MICHAEL E. MOORE**  
SOLICITOR GENERAL

CORDELL HULL AND JOHN SEVIER  
STATE OFFICE BUILDINGS

TELEPHONE 615-741-3491  
FACSIMILE 615-741-2009

Reply to:  
Consumer Advocate and Protection Division  
Post Office Box 20207  
Nashville, TN 37202

June 27, 2003

Honorable Sara Kyle  
Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243

**RE: In Re: Petition of Tennessee American Water Company to Change and Increase Certain Rates and Charges So As to Permit it to Earn a Fair and Adequate Rate of Return on Its Property Used and Useful in Furnishing Water Service to Its Customers**  
**Docket No. 03-00118**

Dear Chairman Kyle:

Enclosed is an original and thirteen copies of a Proposed Settlement Agreement between the Attorney General and Tennessee American Water Company. Copies are being sent to all parties of record. If you have any questions, kindly contact me at (615) 532-3382. Thank you.

Sincerely,

Vance Broemel  
Assistant Attorney General

Enclosures

cc: All Parties

64720

**IN THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

**IN RE:**

**PETITION OF TENNESSEE-AMERICAN  
WATER COMPANY TO CHANGE AND  
INCREASE CERTAIN RATES AND  
CHARGES SO AS TO PERMIT IT TO EARN A  
FAIR AND ADEQUATE RATE OF RETURN  
ON ITS PROPERTY USED AND USEFUL IN  
FURNISHING WATER SERVICE TO ITS  
CUSTOMERS**

)  
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) **DOCKET NO. 03-00118**  
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**PROPOSED SETTLEMENT AGREEMENT**

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For the sole purpose of settling the case of Petition of Tennessee-American Water Company to Change and Increase Certain Rates and Charges So as to Permit It to Earn a Fair and Adequate Rate of Return on its Property Used and Useful in Furnishing Water Service to its Customers, TRA Docket No. 03-00118, the Office of Attorney General through the Consumer Advocate and Protection Division (hereinafter "Attorney General") and Tennessee-American Water Company ("Tennessee-American") hereby agree and stipulate as follows in the above-styled case set for hearing on June 30, 2003:

1. The Attorney General and Tennessee-American stipulate and agree that Tennessee-American is entitled to earn a 7.73% return on investments with a 9.9% return on equity, as shown in attached Schedule 1.
2. The Attorney General and Tennessee-American further stipulate and agree that a 7.73% return on investment generates a revenue deficiency of either: (1) \$1,617,447 in the event the Tennessee Regulatory Authority continues to impute the reduction of the fire hydrant annual

charges as ordered by the TRA in its response to the Company's petition to voluntarily reduce its annual price for public fire service from \$301.20 to \$50 per public fire hydrant, in TRA Docket No. 99-00891; or (2) \$2,745,411 in the event the TRA decides to reverse the imputation of the fire hydrant annual cost or otherwise approve an overall settlement with an adjustment that would offset the loss in public fire service revenues. The revenue deficiency with and without the imputation of the fire hydrant annual cost is shown in Schedule 2.

3. The Attorney General and Tennessee-American further stipulate and agree that Tennessee-American shall withdraw its request for the "Distribution System Renewal Surcharge" as set forth in its proposed tariff.

4. In the event that the TRA does not accept the Proposed Settlement in whole or in part, the Attorney General and Tennessee-American are not bound by any position set forth herein.

TENNESSEE-AMERICAN WATER  
COMPANY

BY: *R. Dale Grimes*

R. Dale Grimes (BPR# 6223)  
BASS, BERRY & SIMS PLC  
(615) 742-6200

BY: *T.G. Pappas*

T.G. Pappas (BPR #2703)  
BASS, BERRY & SIMS PLC  
(615) 742-6200

CONSUMER ADVOCATE AND  
PROTECTION DIVISION OF THE  
OFFICE OF THE TENNESSEE

ATTORNEY GENERAL

BY: *Vance L. Broemel*  
Vance L. Broemel (BPR#11421)  
Assistant Attorney General

(615) 741-8733

BY: *Shilina B. Chatterjee*

Shilina B. Chatterjee (BPR#20689)  
Assistant Attorney General  
(615) 741-3382

Dated: June 27, 2003

**CERTIFICATE OF SERVICE**

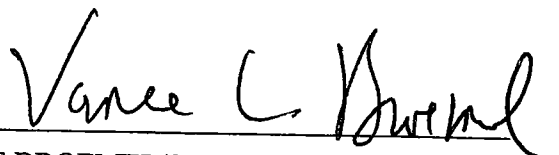
I hereby certify that a true and exact copy of the foregoing has been forwarded by facsimile and/or first-class mail, postage prepaid on June 26, 2003, to the following:

T.G. Pappas, Esq./Dale Grimes, Esq.  
Bass, Berry & Sims, PLC  
AmSouth Center  
315 Deaderick Street, Suite 2700  
Nashville, TN 37238-3001

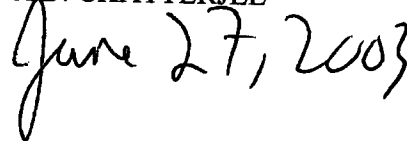
Michael A. McMahan, Esq.  
Phillip A. Noblett, Esq.  
Lawrence W. Kelly, Esq.  
Nelson, McMahan & Noblett  
801 Broad Street, Suite 400  
Chattanooga, TN 37402

Henry M. Walker, Esq.  
Boult, Cummings, Conners & Berry, PLC  
414 Union Street, Suite 1600  
Nashville, TN 37219

David C. Higney, Esq.  
Grant, Konvalinka & Harrison, P.C.  
633 Chestnut Street, 9th Floor  
Chattanooga, TN 37450



VANCE BROEMEL/SHILINA B. CHATTERJEE  
Assistant Attorney General



66484

Tennessee-American Water  
Cost of Capital  
For the 12 Months Ending March 31, 2004

Line No	Parent	Ratio	Cost	Weighted Cost
1	Common Equity	56.00%	9.90%	5.54%
2	Debt	44.00%	6.00%	2.64%
3	Total	<u>100.00%</u>		<u>8.18%</u>
	Tennessee American.	Ratio	Cost	Weighted Cost
4	Short Term Debt	6.2%	3.50%	0.22%
5	Long Term Debt	20.8%	7.62%	1.59%
6	Preferred Equity	1.6%	5.01%	0.08%
7	Common Equity	71.4%	8.18%	5.84%
8	Total	<u>100.00%</u>		<u>7.73%</u>

Source: Dr. Brown Workpapers and Co. Exhibit PRM-2, Schedule 1

Tennessee-American Water  
Results of Operations  
For the 12 Months Ending March 31, 2004

Line No		CAPD		Company	F/	Difference
1	Rate Base	87,062,756	A/	87,270,579		(207,823)
2	Operating Income at Present Rates	5,098,465	B/	5,193,431		(94,966)
3	Earned Rate of Return (Line 2/Line 1)	5.86%		5.95%		-0.09%
4	Cost of Capital	7.73%	C/	8.559%		-0.83%
5	Required Operating Income (Line 1*Line 4)	6,729,951		7,469,489		(739,538)
6	Operating Income Deficiency (Line 5-Line 2)	1,631,486		2,276,058		(644,572)
7	Gross Revenue Conversion Factor	1.682767	D/	1.698908		(0.016141)
8	Normal Revenue Deficiency (Line 6*Line 7)	2,745,411		3,866,812		(1,121,401)
9	Fire Protection Rate Discount	(1,127,964)	E/	-		(1,127,964)
10	Rate Increase Needed if fire protection revenues continue to be imputed (Line 8-Line 9)	1,617,447		3,866,812		(2,249,365)
11	Current Rates	28,952,397				
12	% increase (Line 11 / Line 10)	5.5866%				
13	Rate increase if fire protection discount charged to all customers (Line 8)	2,745,411				
14	% increase (Line 13 / Line 11)	9.4825%				

A/ CAPD Exhibit, Schedule 2  
B/ CAPD Exhibit, Schedule 3  
C/ CAPD Exhibit SB\_\_, Schedule 16  
D/ CAPD Exhibit, Schedule 8  
E/ TRA Order on 9/26/00 in Docket 99 - 00891  
F/ Company SAV Exhibit 1, Schedule 1